United Nations S/AC.44/2004/(02)/44

Security Council

Distr.: General
5 November 2004

Original: English

Security Council Committee established pursuant to resolution 1540 (2004)

Note verbale dated 28 October 2004 from the Permanent Mission of Portugal to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Portugal to the United Nations presents its compliments to the Chairman of the Committee and, with reference to the latter's note verbale dated 21 June 2004, has the honour to transmit herewith the first report of the Government of Portugal in accordance with Security Council resolution 1540 (2004) (see annex).

04-59817 (E) 011204

Annex to the note verbale dated 28 October 2004 from the Permanent Mission of Portugal to the United Nations addressed to the Chairman of the Committee

Security Council resolution 1540 (2004)
National report — Portugal

As Portugal is a member of the EU, reference is made to the EU Common Report that will be transmitted to the UNSC 1540 Special Committee separately. This EU Report covers areas of EU and Community competences and activities in relation to UNSC Resolution 1540 and should be read in conjunction with this national report.

This was the first Security Council resolution to address the threat that proliferation of weapons of mass destruction and their means of delivery poses to international peace and security.

At national level, we are reviewing our policies, with a view to establishing what further measures may be necessary (appropriate legislation is detailed below).

At european level, Portugal has contributed to establish effective policies within the European Union to prevent WMD proliferation, and will continue to do so.

At international Level Portugal is party to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), as well as the Chemical Weapons Convention (CWC), and the Biological and Toxic Weapons Convention (BTWC). Portugal has adopted an Additional Protocol to its IAEA Safeguards Agreement. In addition, Portugal is a member of the following export control regimes: Nuclear Supplier's Group, the Australia Group, the Missile Technology Control Regime, the Zangeer Commitee and the Wassenaar Arrangement, and is also a signatory to the International Code of Conduct against Ballistic Missile Proliferation (HCOC).

Portugal also helped established the Proliferation Security Initiative (PSI).

Comments in relation to the specific items raised by this UNSCR 1540:

Para 1.
Portugal does not provide any form of support to non-state actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery.

According to Law 52/2003 from 22 August (Combating Terrorism) it is an offence to promote or initiate a group, organization or terrorist association, to adhere or support it, to lead a group, organization or terrorist association, to practice

preparatory acts for the constitution of such a group, or for the practice of crimes referred to in this Law; these include acts involving the intention to cause danger through fire, explosion, release of radioactive or toxic gases or substances, research and devices of biological or chemical weapons and use of nuclear energy.

Para 2.
According to artº. 275 of the Portuguese Penal Code (unofficial translation) it is a criminal offence to import, produce, obtain through transformation, stock, buy, sell, cede, acquire in any capacity or by any means, transport, distribute, retain, use or carry any weapon classified as war material, prohibited firearm or to be used to project toxic, asphyxiating, radioactive or corrosive substances; or explosive or radioactive device or substance, as well as when appropriate to the production of toxic or asphyxiating gases, except when within the bounds of the legally established conditions or in conformity with the prescriptions of the competent authorities. Penalties can reach eight years of imprisonment if the device or substance could entail a nuclear explosion.

The Portuguese legislation may be updated, if necessary, to accommodate further measures deemed appropriate in this field.

Para 3.
Portugal applies the rules on non proliferation, export controls and border security as established in the framework of the relevant international treaties and regimes. In cases of dual use items, the specific procedures have been harmonised at the EU level, notably through the Dual Use Regulation (EU) 1334/2000. National legislation applies in all other cases (Decree Law 436/91 of 8 November).

With the aim of promoting cooperation and interaction between several national bodies involved in counterproliferation, a program has been developed; the programme's objectives are: to support control of export and technology transfers, to detect underground procurement networks and to fight nuclear and radioactive smuggling.

Para. 5.
Portugal is party to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), as well as to the Chemical Weapons Convention (CWC) and to the Biological and Toxin Weapons Convention (BTWC). Portugal is a member of the Organization for the Prohibition of the Chemical Weapons (OPCW) of the International Atomic Energy Agency (IAEA) and presently sits in its Board of Governors.

Para 6.
Portugal is an active member of the multilateral export control regimes, namely of the Nuclear Supplier's Group, the Australia Group, the Missile Technology

Control Regime, the Zangeer Commitee and the Wassenaar Arrangement. In addition to national export control lists, control lists developed under those regimes are also applied by the portuguese export control system.

It is Portugal's policy to encourage non-member states of the export control regimes to adhere to regime guidelines on export controls.

Para. 8.

a) As part of the European Union's action plan to prevent the proliferation of WMD, the EU agreed a Common Position on the universalisation and reinforcement of multilateral agreements in the field of non proliferation of WMD and their delivery systems. Portugal has been carrying out series of demarches to encourage States to conclude a Comprehensive Safeguards Agreement with the IAEA and to promote the universalisation of the IAEA Additional Protocol (both ratification and adherence to) and the adherence to the Hague Code of Conduct (HCOC).

b) Portugal is presently reviewing the status of national rules and regulations to ensure its adequacy to recent developments, including in the field of the CWC.

c) Portugal continues to provide support for the aims and activities of the OPCW, BTWC, and the IAEA.

d) In the framework of industrial cooperation, the Portuguese Government intends to begin and pursue official contacts with private companies operating in this field in order to spread information on the existing rules on the matter and to stress proliferation risks.

Para 9.

In the framework of several international *fora*, Portugal continues to promote dialogue on non proliferation, addressing the threat posed by proliferation of nuclear, chemical, or biological weapons, and their means of delivery.

Para 10.

Portugal is participating, from its inception, in the Proliferation Security Initiative, launched in May 2003. Its objective is the interdiction/interception of trafficking of WMD and related material.

The PSI principles are explicitly based on the 1992 UN Security Council Declaration on proliferation of WMD and are consistent with national legislation and relevant international law and frameworks, including the UN.

This Initiative has an inclusive nature and is open to all countries that share PSI concerns, principles and objectives (set out in the PSI Statement of Interdiction Principles, Paris, 4/09/03). Portugal is strongly committed to the PSI goals and principles.

The PSI Fifth Plenary Meeting took place in Lisbon, on March 2004. Australia, Canada, France, Germany, Italy, Japan, the Netherlands, Norway, Poland, Singapore, Spain, the UK and the US were represented. The Lisbon Plenary addressed several important issues, namely future outreach activities.

In the aftermath of the Lisbon Plenary Meeting, Portugal organized a regional outreach meeting with African countries that took place on the 23rd of March 2004 (Algeria, Angola, Cape Verde, the Democratic Republic of Congo, Egypt, Libya, Morocco, Mozambique, Nigeria, S. Tomé and Principe, South Africa, Tunisia and Zimbabwe were present). The meeting had a threefold aim: first, to present the principles and the objectives of PSI and contribute to the efforts to raise worldwide awareness; second, to highlight the important role of the African Continent in the ongoing fight against the proliferation of WMD; and finally, to present the results of the Lisbon Plenary. Several countries expressed an interest to continue to be kept informed on this Initiative.

Portugal favours the review of the SUA Convention (United Nations Convention on the Suppression of Unlawful Acts against the Safety of Maritime Navigation) so that its law enforcement provisions may also apply to proliferation, as long as it does not interfere substantially with the international maritime trade.